

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2021

CORAM:

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

C.R.P.(NPD).No.2155 of 2018
and C.M.P.No.13402 of 2018

Palanisamy

... Petitioner

Vs

1.Mohan
2.Anbalagan
3.Ganesan
4.Palaniyammal
5.Arrammal
6.P.Krishnan

... Respondents

Prayer: Civil Revision Petition filed under Section 115 of Civil Procedure Code, against the order and decreetal order dated 06.04.2018 made in R.E.P.No.28 of 2013 in O.S.No.192 of 2008 on the file of the Court of the District Munsif, Rasipuram.

For Petitioner : Mr.T.Dhanasekaran

For Respondents : No Appearance

ORDER

This Civil Revision Petition is filed against the order and decretal order dated 06.04.2018 made in R.E.P.No.28 of 2013 in O.S.No.192 of 2008 on the file of the Court of the District Munsif, Rasipuram, thereby allowing the Execution Petition.

2. The petitioner is the first defendant and the respondents 1 to 3 are the plaintiffs. The respondents 1 to 3 filed the suit for mandatory and permanent injunction in respect of the suit property. The suit was decreed by the Judgment and Decree dated 31.01.2013. In pursuant to the decree, the respondents 1 to 3 filed an execution petition. In fact, the suit was decreed on receipt of the Advocate Commissioner's report concluded that the petitioner encroached the portion of the suit property.

3. Before the execution Court, the petitioner filed a counter stating that there is no pathway in the suit property as stated by the respondents 1 to 3 herein. The Advocate Commissioner had not filed his report with scale

plan. Without even measuring the property, the claim of the respondents 1 to 3 is not sustainable.

4. Admittedly, the petitioners did not prefer any appeal suit in time and they filed an appeal suit with the delay. So far, there is no evidence to show that the petitioners preferred an appeal suit. Therefore, the execution Court rightly allowed the petition and this Court finds that there is no infirmity and irregularity in the order passed by the Court below.

5. Accordingly, this Civil Revision Petition is dismissed. However, if the petitioners produced any interim order in the appeal suit, the same may be considered by the Execution Court. No order as to costs. Consequently, the connected miscellaneous petition is closed.

29.04.2021

Internet: Yes
Index: Yes/No
rna

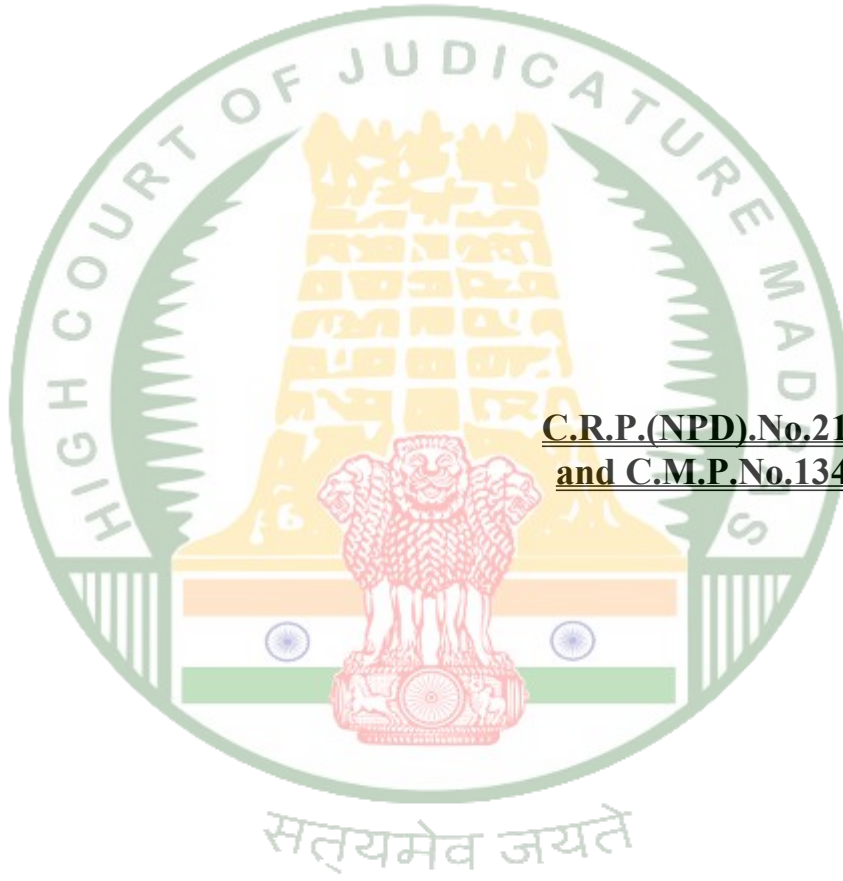
To

The District Munsif Court,
Rasipuram.

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G.K.ILANTHIRAIYAN. J,

rna



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